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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Barbara Dold

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EXAMINER

YU, GINA C

ART UNIT

PAPER NUMBER

1611

MAIL DATE

DELIVERY MODE

05/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Continuation of No. 3:

The proposed limitations "oil-in-water" and "water-in-oil" in claims 33 and 62, respectively, have not been introduced to the claims during the previous prosecution and would need further search and consideration. The recitation of the specific oils of claim 51 has not been considered during the previous examination and needs further search and consideration.

The limitations "oil-in-water" and "water-in-oil" in claims 33 and 62 also raise a new matter issue because applicant's original specification only discloses silicone-in-water and water-in-silicone-in-water emulsion on page 16 and all the examples appear to be silicone-in-water emulsions. There appears to be no emulsions comprising oils other than silicone, particularly since applicant had indicated that the emulsions exclude other types of oils, as defined in claim 51. Although silicone oil is typically considered as a cosmetic oil as in the cited prior arts, in the present application applicant's original disclosure has specifically and narrowly defined the invention to be silicone and water emulsion only. By now defining the emulsions as "oil-in-water" and "water-in-oil", the proposed amendment would effectively broaden the scope of the actual inventions to include oil and water emulsions as well as silicone and water emulsions. However, applicant's original disclosure does not convey to a person of ordinary skill in the art that applicant was in possession of emulsions other than silicone and water emulsions. Therefore, although the cited prior art has referred a water-in-silicone emulsion as an water-in-oil emulsion, applicant's particular invention as disclosed at the time of the filing is limited to only silicone oil and water emulsions.

Art Unit: 1611

Furthermore, arguing the disclosure of S/W emulsions supports the introduction of an O/W emulsion, which examiner views does not, the proposed limitation "water-in-oil" emulsion of instant claim 62 finds no support from the specification because the disclosure teaches emulsions having an aqueous phases as the continuous phase in a biphasic emulsion only. The fact that the original claims recite emulsions having an aqueous phase and silicone phase without specifying the form does not necessarily convey that applicant was in possession of the specific form of water-in-silicone oil emulsion. Although the prior art species (water-in-silicone emulsion) anticipates the genus of the present invention (the broadly claimed emulsion having an aqueous phase and a silicone oil phase), the species that had not been disclosed in the original specification cannot later be introduced in the claims, Applicant's original disclosure does not define that the emulsion which applicant was in possession at the time of the present invention was in a specific form of water-in-silicone oil.

Continuation of No. 11:

Applicant's arguments are based on the proposed amendment, which is not entered at this time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GINA C. YU whose telephone number is (571)272-8605. The examiner can normally be reached on Monday through Thursday, from 8:00AM until 6:00 PM..

Art Unit: 1611

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sharmila Landau can be reached on 571-272-0614. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GINA C. YU/
Primary Examiner, Art Unit 1611